

The following is a summary of provisions in the statute and the regulations. Some of the provisions regarding public access to Tier II information under EPCRA is codified in 40 CFR part 370.

Section 312 (e) (3) Availability to public

(A) In general

Any person may request a State emergency response commission or local emergency planning committee for tier II information relating to the preceding calendar year with respect to a facility. Any such request shall be in writing and shall be with respect to a specific facility.

(B) Automatic provision of information to public

Any tier II information which a State emergency response commission or local emergency planning committee has in its possession shall be made available to a person making a request under this paragraph in accordance with section 11044 of this title. If the State emergency response commission or local emergency planning committee does not have the tier II information in its possession, upon a request for tier II information the State emergency response commission or local emergency planning committee shall, pursuant to paragraph (1), request the facility owner or operator for tier II information with respect to a hazardous chemical which a facility has stored in an amount in excess of 10,000 pounds present at the facility at any time during the preceding calendar year and make such information available in accordance with section 11044 of this title to the person making the request.

These provisions are codified in the regulations as follows:

40 CFR 370.61 How does a person obtain inventory information about a specific facility?

- (a) Any person may request Tier II information for a specific facility by writing to the SERC or the LEPC and asking for such information.
 - 1) If the SERC or LEPC has the Tier II information, the SERC or LEPC must provide it to the person making the request.
 - 2) If the SERC or LEPC does not have the Tier II information.....
- (b) A SERC or LEPC must respond to a request for Tier II information under this section within 45 days of receiving such a request.

Section 324

(a) Availability to public

Each emergency response plan, material safety data sheet, list described in section 11021 (a)(2) of this title, inventory form, toxic chemical release form, and follow-up emergency notice shall be made available to the general public, consistent with section 11042 of this title, during normal working hours at the location or locations designated by the Administrator, Governor, State emergency response commission, or local emergency planning committee, as appropriate. Upon request by an owner or operator of a facility subject to the requirements of section 11022 of this title, the State emergency response commission and the appropriate local emergency planning committee shall withhold from disclosure under this section the location of any specific chemical required by section 11022 (d)(2) of this title to be contained in an inventory form as tier II information.

(b) Notice of public availability

Each local emergency planning committee shall annually publish a notice in local newspapers that the emergency response plan, material safety data sheets, and inventory forms have been submitted under this section. The notice shall state that follow-up emergency notices may subsequently be issued. Such notice shall announce that members of the public who wish to review any such plan, sheet, form, or follow-up notice may do so at the location designated under subsection (a) of this section.

Note: These provisions are not codified in the EPA regulations.



The statute authorizes SERCs and LEPCs to establish procedures for providing information to the public as follows:

Section 301(a)

The State emergency response commission shall establish procedures for receiving and processing requests from the public for information under section 324, including tier II information under section 312.

Section 301(c)

The local emergency planning committee shall establish procedures for receiving and processing requests from the public for information under section 324, including tier II information under section 312.

Note: These provisions are not codified in the EPA regulations.

EPA's guidance on providing public access is as follows:

SERCs and LEPCs can use the provisions in Sections 301(a) and 301(c) to support the provisions in Section 324 for making information available to the public during normal working hours. The SERCs and LEPCs may also establish specific procedures in the State right-to-know program, such as location(s) for a reading room, specific time for the public to visit the reading room, whether copies can be made, the costs for copying, etc.

As stated in EPCRA Section 312(e)(3)(A), any person may contact a SERC or LEPC for Tier II information for a specific facility upon request and in writing.